

AO 91 (Rev. 11/11) Criminal Complaint (approved by AUSA Thayer)

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America

v.

Gafaar Mohammed Ebrahim Al-Wazer

Case No.

19- 1856-M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 17, 2016 in the county of Philadelphia in the
Eastern District of Pennsylvania, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. Section 1001(a)(2)

False Statements

For further description, see Attachment A

This criminal complaint is based on these facts:

See Attachment B, Affidavit

☒ Continued on the attached sheet.

David A. Bottalico

Complainant's signature

David A. Bottalico, Task Force Officer, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: November 1, 2019

City and state: Philadelphia, Pennsylvania

David R. Strawbridge

Judge's signature

Hon. David R. Strawbridge, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

On or about May 17, 2016, in the Eastern District of Pennsylvania,

defendant

GAAFAR MOHAMMED EBRAHIM AL-WAZER,

in a matter within the jurisdiction of the Federal Bureau of Investigation and the Department of Homeland Security, agencies of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations, in that defendant AL-WAZER:

COUNT	DESCRIPTION
ONE	Stated that he does not align with the Houthi movement, when he knew that he was aligned and very involved with the Houthi movement;
TWO	Stated that he had never fired a weapon, when he knew that he had fired weapons; and
THREE	Stated that he had never participated in military or militia training, when he knew that he had received military or militia training.

In violation of Title 18, United States Code, Section 1001(a)(2).

ATTACHMENT B

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, David A. Bottalico, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. This Affidavit is being submitted in support of a Criminal Complaint and Arrest Warrant charging GAAFAR MOHAMMED EBRAHIM AL-WAZER ("AL-WAZER"), a Yemeni national, with violations of 18 U.S.C. § 1001(a)(2) (false statements).

2. I am a Special Agent with the Department of Homeland Security, Homeland Security Investigations ("HSI"), and have been so employed since 2001. In the course of my duties as an HSI Special Agent, I have received training and participated in investigations involving violations of U.S. immigration and customs laws, including child exploitation and counter-proliferation violations. Since 2017, I have been assigned to HSI's National Security Group, and, beginning on October 1, 2019, I have been serving as a sworn Task Force Officer ("TFO") with the Federal Bureau of Investigation ("FBI"), assigned to the FBI's Joint Terrorism Task Force ("JTTF") in Philadelphia.

3. This Affidavit is based upon my personal knowledge, experience and investigation, as well as information related to me by witnesses, other FBI agents, including FBI TFO Anthony R. Soliman, and other law enforcement officers in the course of their official duties. This Affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. Unless specifically indicated, all conversations and statements described in this Affidavit are related in substance and in part. Where I assert that an event took place on a particular date, I am asserting

that it took place on or about the date asserted.

PROBABLE CAUSE

Background on the Houthi Insurgency in Yemen

4. The Houthi movement is a political and military insurgency known officially as Ansar Allah (“Supporters of God”) that emerged in northern Yemen in the 1990s. The Houthis are so named because their founder was a member of Yemen’s Houthi tribe, but their movement consists of supporters and fighters from numerous non-Houthi Yemeni tribes. Beginning in approximately 2004, the Houthi rebels launched an armed rebellion against Yemeni government forces, seizing territory in northern Yemen, including Yemen’s capital, Sana’a, and, by 2014, ultimately driving Yemen’s president into exile in adjoining Saudi Arabia and declaring themselves in full control of the government. In 2015, Saudi Arabia assembled a coalition of several regional countries and, with support from the United States, began a military intervention in Yemen consisting in significant part in airstrikes. Up to the date of this writing, Yemen remains embroiled in a civil war involving the Houthis on one side, and the Saudi-led coalition on the other.

5. Investigation has determined that AL-WAZER is a member of a Yemeni family, which in turn belongs to a prominent Yemeni tribe.

AL-WAZER’s 2014 Application for a Nonimmigrant Visa

6. A nonimmigrant visa application for temporary travel to the United States is a multiple-step process. At least two of these steps relate directly to the U.S. Department of State Form DS-160. First, an applicant seeking a nonimmigrant visa submits a Form DS-160 to the U.S. State Department. The Form DS-160 requires that the applicant answer a series of background questions. At the end of the Form DS-160, the applicant signs the document in

which the applicant certifies under penalty of perjury that its contents are all true and correct. Second, the applicant has an in-person interview with a U.S. State Department consular officer, who is often stationed overseas in the same country as the applicant. This interview is conducted under oath, and the officer reviews with the applicant the applicant's answers to the questions posed and information sought by the Form DS-160. At the conclusion of the interview, the applicant certifies under penalty of perjury that the contents of the Form DS-160, including any corrections made during the interview, are true and correct to the best of the applicant's knowledge.

7. On October 11, 2014, AL-WAZER, a Yemeni citizen, electronically submitted from Yemen a Form DS-160, Online Nonimmigrant Visa Application, to the U.S. State Department. On his Form DS-160, AL-WAZER stated that his date of birth is January 1, 1995, and that he was a student living in Sana'a, Yemen. Moreover, in his Form DS-160, under the section headed, "Travel," AL-WAZER indicated that he was a student who intended to arrive in the United States on November 1, 2014, and stay for a period of nine months at an English language studies program in Austin, Texas.

8. On his Form DS-160, under the section headed, "Additional Work/Education/Training," in response to the question, "Do you belong to a clan or tribe?," AL-WAZER answered "NO."

9. On his Form DS-160, under the section headed, "Additional Work/Education/Training," in response to the question, "Have you ever served in, been a member of, or been involved with a paramilitary unit, vigilante unit, rebel group, guerrilla group, or insurgent organization?," AL-WAZER answered "NO."

10. On his Form DS-160, under the section headed, "Security and Background," in

response to the question, "Have you ever sought to obtain or assist others to obtain a visa, entry into the United States, or any other United States Benefit by fraud or willful misrepresentation or unlawful means?," AL-WAZER answered "NO."

11. Prior to electronically submitting his Form DS-160, AL-WAZER was required to, and did, enter his electronic signature under the statement that "I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct." The Form DS-160's instructions preceding this portion of the form advise the applicant that by electronically signing and submitting the application, the applicant's electronic signature certifies that the applicant has read and understood the application's questions; that the applicant's answers are true and correct to the best of the applicant's knowledge and belief; that the declarations in the application are made under penalty of perjury, citing 28 U.S.C. Section 1746; and that the applicant understands that any willfully false or misleading statement or willful concealment of a material fact made by the applicant within the application may subject the applicant to criminal prosecution and/or deportation. AL-WAZER also submitted a photograph of himself as part of his Form DS-160 application.

12. On October 18, 2014, AL-WAZER was interviewed under oath by a State Department consular officer in Yemen. During this interview, the officer reviewed with AL-WAZER the answers given and information provided by AL-WAZER in the Form DS-160 that AL-WAZER had submitted. AL-WAZER's oath encompassed, among other things, the above-described answers to the questions that he made or caused to be made on his Form DS-160, which entries contained false, misleading, and fraudulent information.

13. On October 18, 2014, the State Department approved AL-WAZER's Nonimmigrant Visa Application. According to United States Customs and Border Protection,

AL- WAZER entered the United States on or about December 16, 2014.

AL-WAZER's 2015 Application for Temporary Protected Status

14. Temporary Protected Status ("TPS") is a status granted by the United States to eligible nationals of certain foreign countries or parts of countries due to conditions in that country that temporarily prevent the country's nationals who are in the U.S. from returning safely, or in certain circumstances, due to conditions that temporarily prevent those foreign countries from handling the return of its nationals adequately. Examples of such conditions include natural disasters or civil conflict.

15. On December 3, 2015, AL-WAZER submitted a U.S. Citizenship and Immigration Services ("USCIS") Form I-821, Application for Temporary Protected Status, to USCIS, which is an agency of the Department of Homeland Security. In his Form I-821, under the heading "U.S. Mailing Address," AL-WAZER entered "3901 Conshohocken Ave, Apt. 7202, Philadelphia, PA, 19131." At the time AL-WAZER submitted his Form I-821, he was living in the Philadelphia area, in the Eastern District of Pennsylvania. On his Form I-821, under the heading "Part 4. Eligibility Standards," in response to Question 3.c., "Have you **EVER** or are you **NOW** engaged in activities that could be reasonable grounds for concluding that you are a danger for the security of the United States?," AL-WAZER answered "NO" (bold in original question and in questions quoted below).

16. On his Form I-821, under the heading "Part 4. Eligibility Standards," in response to Question 12.f., "Have you **EVER**, by fraud or willfully misrepresenting a material fact, sought to obtain a visa or other documentation, admission to the United States, or any other immigration benefit?," AL-WAZER answered "NO."

17. On his Form I-821, under the heading "Part 4. Eligibility Standards," in response

to Question 22.a., “Have you **EVER** served in, been a member of, assisted in, or participated in any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, rebel group, guerrilla group, militia, or insurgent organization?,” AL-WAZER answered “NO.”

18. On his Form I-821, under the heading “Part 4. Eligibility Standards,” in response to Question 23, “Have you **EVER** been a member of, assisted in, or participated in any group, unit, or organization of any kind in which you or other persons used any type of weapon against any person or threatened to do so?,” AL-WAZER answered “NO.”

19. On his Form I-821, under the heading “Part 4. Eligibility Standards,” in response to Question 25, “Have you **EVER** received any type of military, paramilitary, or weapons training?,” AL-WAZER answered: “NO.”

20. On his Form I-821, under the heading “Part 5. Statement, Certification, Signature, and Contact Information of the Applicant,” AL-WAZER marked a box with an “X,” affirming that “I can read and understand English, and have read and understood each and every question and instruction on the form, as well as my answer to each question.” In Part 6 of his Form I-821, AL-WAZER also indicated that he did not utilize the service of an interpreter for the application.

21. Part 5 of the Form I-821 also includes an “Applicant Certification” jurat, which states: “I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.” On his Form I-821, AL-WAZER placed his signature below this jurat, next to a date of October 26, 2015. According to his Form I-821, Part 7, an employee from the Arab American Association of New York helped AL-WAZER prepare his Form I-821, which was mailed from New York City to USCIS in Chicago, Illinois.

FBI’s 2016 Interview of AL-WAZER

22. On May 17, 2016, the JTTF was alerted by Drexel University (“Drexel”) that

while an English as a Second Language (“ESL”) student at Drexel in Philadelphia, AL-WAZER had made a post to his Facebook account that included a photograph of him in military garb and holding an automatic rifle, and that “he hates all Americans, death to all Americans, especially Jews.” That same day, TFO Soliman and HSI Special Agent William Cook, also an FBI TFO on the JTTF, conducted a voluntary interview of AL-WAZER at Drexel’s Public Safety Department, located in Philadelphia. TFO Soliman is a fourteen-year Police Officer with the Philadelphia Police Department (“PPD”) who has been a TFO with the FBI since 2010, where he has also been assigned to the JTTF and participated in domestic and international terrorism investigations. TFO Soliman is currently certified by the PPD as an interpreter in the Arabic language, having completed a 40-hour Philadelphia Police Department course and a ten-week Arabic immersion language proficiency course through the U.S. State Department.

23. At the outset of the interview, TFOs Soliman and Cook identified themselves as TFOs assigned to the FBI. When TFO Cook asked AL-WAZER if he was comfortable proceeding in English, TFO Soliman informed AL-WAZER in Arabic that they could proceed in either English or Arabic, whichever AL-WAZER preferred. AL-WAZER then stated that he was comfortable continuing in English. TFO Cook then warned AL-WAZER that lying to federal officers could result in him being prosecuted for false statements.

24. AL-WAZER stated that he had traveled to the United States to participate in an ESL program in Texas, but then transferred to Drexel to attend ESL classes there. AL-WAZER stated that he was at Level Six, the highest level of proficiency in Drexel’s program.

25. AL-WAZER stated that the Houthi movement is against the United States, but claimed that he and his family “do not align with the Houthi.” AL-WAZER asked hypothetically, if he were to conduct an attack, how would he do it, since he does not have the

equipment. AL-WAZER stated that he hates Saudi Arabia for the continuous bombing of Yemen, and further stated that the United States funds the Saudi government and provides it with weapons to continue bombing Yemen. AL-WAZER repeated that he is anti-Saudi and that he believes that the United States, Saudi Arabia, Israel and ISIS are in collusion. AL- WAZER denied ever firing a weapon; fighting in a conflict; or participating in military or militia training.

26. AL-WAZER voluntarily provided the TFOs with his smart phone so that they could review his Facebook page. TFO Soliman confirmed with AL-WAZER that he was giving him permission to search his Facebook account. AL-WAZER gave his oral consent and also subsequently signed consent to search forms FD-26 (English) and FD-26.1 (Arabic), approximately a week later, since TFOs Soliman and Cook did not have either with them when they conducted the interview on May 17, 2016. AL-WAZER provided his Facebook account user name as “Jafar.Alwazir” and Facebook user identification number 100002329198494. AL-WAZER also provided his password to gain access to his Facebook account from a different device than his smart phone.

FBI's Review and Search Warrant of AL-WAZER's Facebook Account

27. Based on AL-WAZER's consent to search his Facebook account and a Rule 41 search warrant executed in March of 2017, investigators have reviewed the contents of AL-WAZER's Facebook account. The content includes an October 2016 Facebook conversation in which AL-WAZER identifies himself as a member of the Bani-Hushaysh tribe. The content further indicates that AL-WAZER supports and extols Ansar Allah; for example, in a Facebook conversation in February of 2015, he urged another person to join Ansar Allah, and in a

September 2015 conversation, told another person that when that person arrives in the U.S., that AL-WAZER would grant him access to Al-WAZER's Ansar Allah group.

28. AL-WAZER's Facebook account content also includes the posts described and pictured below, among many others. The posts were in Arabic, which TFO Soliman translated. Based on his personal encounters with AL-WAZER and his review of numerous photographs of AL-WAZER, including those he submitted to the U.S. State Department and to USCIS in connection with his visa and TPS applications, respectively, TFO Soliman has identified AL-WAZER in the photographs described below, as noted. AL-WAZER appears in numerous photographs brandishing a military-style rifle, similar to what I know to be an AK-47 assault rifle, as well as in one case carrying what appears, based upon my training and experience, to be a rocket-propelled grenade ("RPG") launcher. In the photos in which AL-WAZER brandishes a military-style rifle, others are also brandishing similar weapons. In some instances, these are group photos taken outdoors with remote and mountainous landscapes in the background. The vehicles in some of these photos bear foreign license plates in the Arabic language. The group photos often displayed males who appear to range in age from about 10 to about 40 years old. These males are often wearing traditional Yemeni clothing, including sandals, equipment vests and a prominent dagger. Based on TFO Soliman's training and experience, he knows that in Yemen, this dagger is known as the Yemeni "Jambia" or "Khangar," which is a short dagger worn by Yemeni men. In addition to being a weapon, this dagger is often an indication of status for males in Yemen.

29. In the undated Facebook post below, approximately fifteen males in two rows stand and crouch in a barren, mountainous region. AL-WAZER is crouching in the first row, holding an AK-47-style rifle. The author of the post states, among other things, that these men have taken an oath to stay on their path, and that these men will never be humiliated on the path of jihad. The author

further wishes death upon the United States and Israel, and wishes victory to Islam. AL-WAZER “liked” this post, which also “tags” him, meaning that the author of the post added or associated AL-WAZER’s Facebook profile to the post, such that AL-WAZER became one of “9 others” associated with the post.



AL-WAZER kneeling in the center holding an AK-47-style rifle

30. The Facebook photograph below lacks identifying information but depicts a group photo of several armed males standing, crouching and sitting. Among them, AL-WAZER is seated in the front row and holds an AK-47-style rifle in his right hand. An individual later identified as AL-WAZER's brother, Kasem Al-Wazer, is standing behind AL-WAZER and wearing a blue jacket and sunglasses. Vehicles in the background bear what I believe to be Yemeni license plates.



AL-WAZER's
brother Kasem
in blue jacket

AL-WAZER
kneeling in the
center holding
an AK-47-style

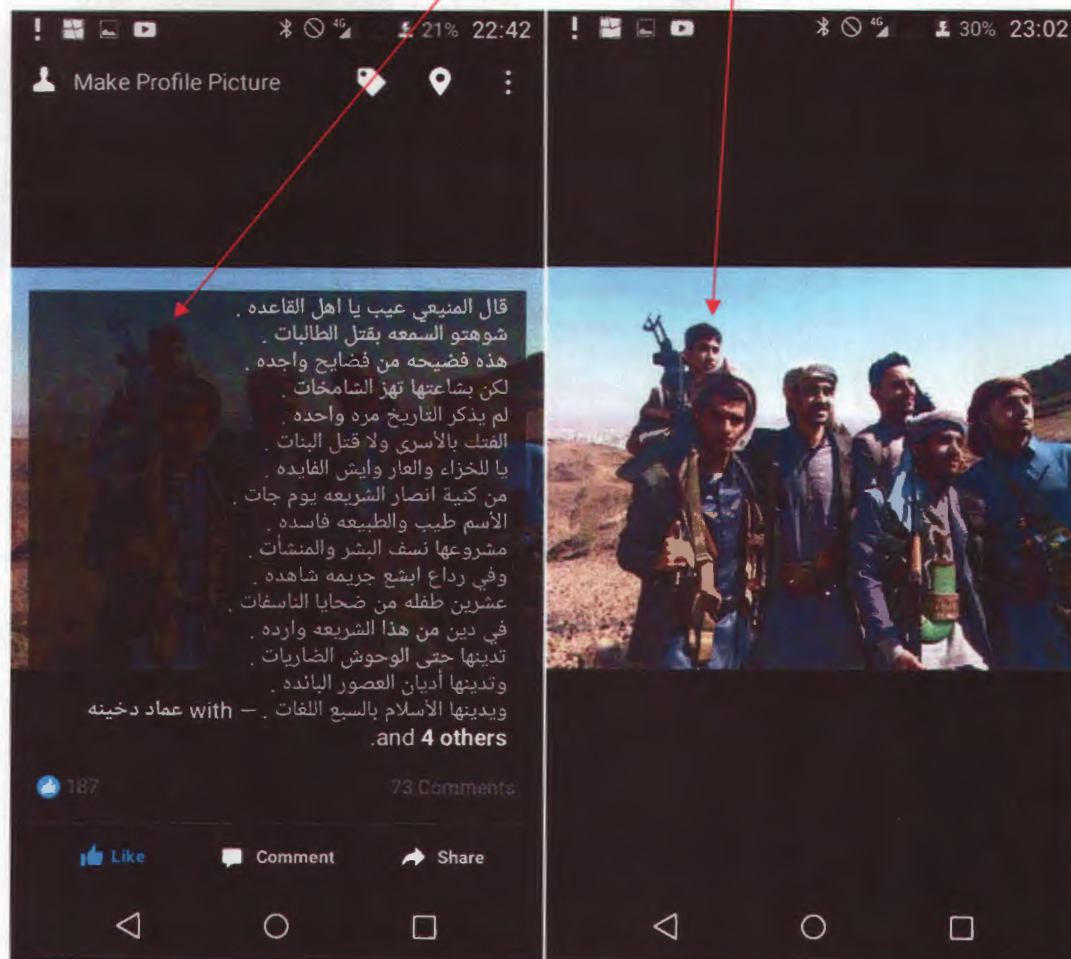
31. In the undated Facebook post below, AL-WAZER is seated in the driver's seat of a jeep or similar vehicle next to another male, both bearing AK-47-style assault rifles. The author of the post states in Arabic that it is impossible for him to forget one person. Based on a review of other posts in AL-WAZER's Facebook account, I believe that the male in the passenger seat is Faris al-Yemeni (which translates to "the Yemeni horseman" or "the Yemeni

knight”), a Houthi rebel fighter. AL-WAZER “liked” this post, which also tagged him.

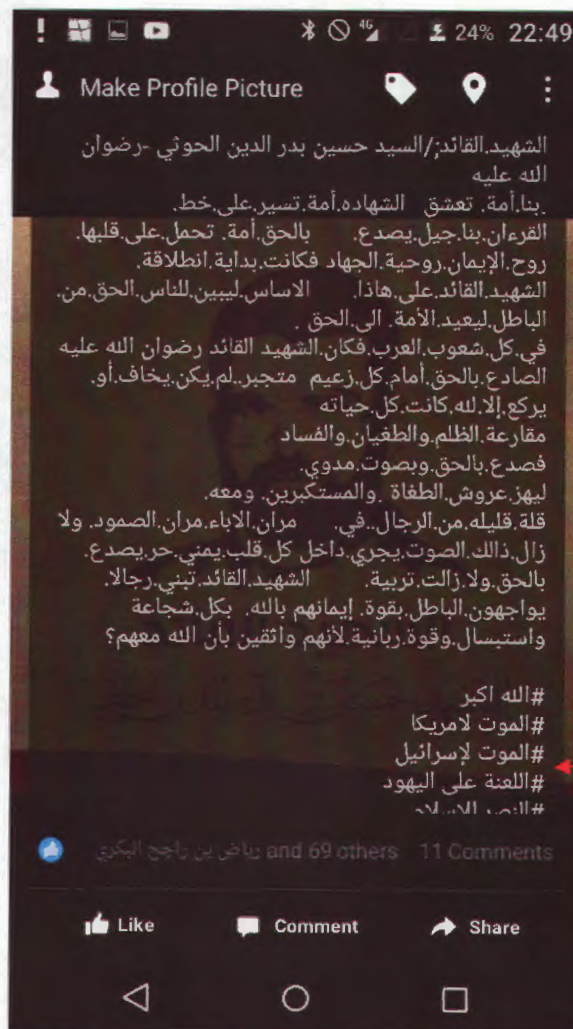


32. In the undated Facebook post below, a photograph shows AL-WAZER and five other men in a barren, mountainous region. AL-WAZER stands in the back, with an AK-47-style assault rifle resting on his right shoulder. AL-WAZER “liked” this post, which also tagged him.

AL-WAZER with an AK-47-style rifle resting on his right shoulder



33. In the undated Facebook post below, the author pays homage to Husayn Badr-al-Din al-Houthi, for whom the Houthi insurgency was named. Over an artist's rendering of al-Houthi, the author writes in Arabic that, among other things, al-Houthi built a nation that loves martyrdom and values jihad. Moreover, the author of the post provides the following "hashtags," which are phrases taken from the Houthi motto: "#God is great"; "#Death to America"; "#Death to Israel"; "#Curse upon the Jews"; and "#Victory to Islam." Translated from Arabic, the Houthi slogan reads, "Allah is the greatest of all, Death to America, Death to Israel, Curse upon the Jews, Victory to Islam." AL-WAZER "liked" this post, which also tagged him.



Houthi Motto in hashtags

34. In the Facebook post below, dated on or about February 17, 2016, four males stand in a barren, mountainous region. At least two of these men appear to be holding assault rifles, and one of the men is shown wearing camouflage clothing. The author states in Arabic script that this is the last photo of the jihadist and martyr, Lutuf Yahya al-Qahum, at Hilan Mountain in Yemen. Based on a search of open-source information, al-Qahum was a senior leader of the Houthi rebels. AL-WAZER “liked” this post, which also tagged him.



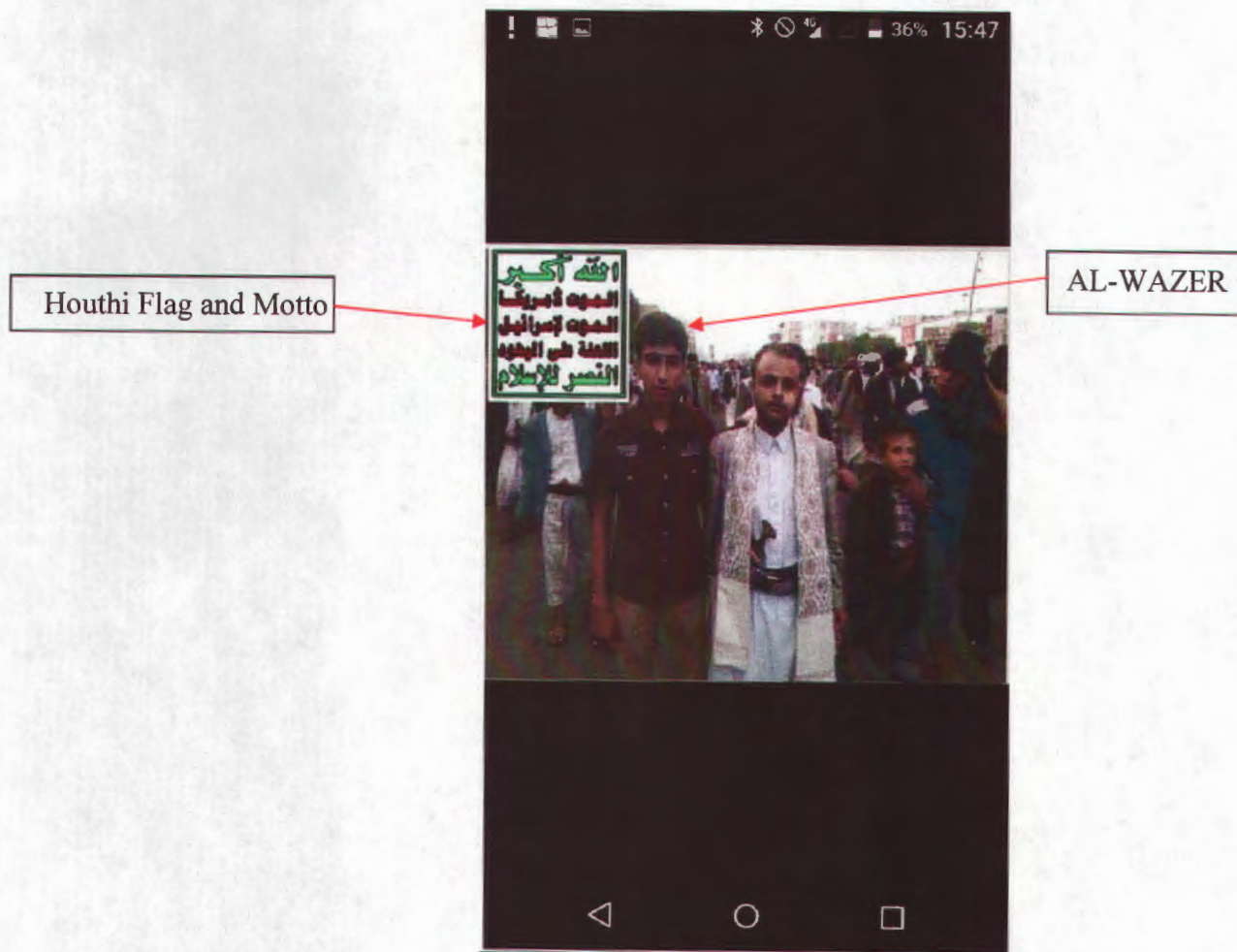
35. In the undated Facebook post below, a bearded male stands indoors while smiling and holding an assault rifle. In Arabic script, the author congratulates the jihadist Lutuf al-Qahum on his martyrdom, and says he will not be forgotten. As noted above, based on a search of open-source information, al-Qahum was a senior leader of the Houthi rebels.



36. In the Facebook post below, dated on or about February 7, 2016, two males kneel and smile in a mountainous region. Both men are grasping what appear to be the muzzles of assault rifles. Another male, whom I believe is AL-WAZER, is partially shown in the background placing his arm on the shoulder of one of the two males. The author of the post asks people to pray for the speedy recovery of Bashir al-Murtada and Ali al- Mansur. AL-WAZER “liked” this post, which also tagged him.



37. The photograph below from AL-WAZER's Facebook account lacks identifying information from Facebook. However, AL-WAZER stands next to another male with the Houthi flag and motto featured in the top left corner.



38. The Facebook photograph below lacks identifying information but in it a group of armed men and boys stand and crouch. Among them, AL-WAZER stands with a rifle resting on his right shoulder.



AL-WAZER with an
AK-47-style rifle resting
on his right shoulder

39. On April 30, 2016, AL-WAZER updated his profile on his Facebook account and added the below photograph as his profile photo. In the photograph,² nine heavily-armed fighters display automatic rifles and wear what appear to be ammunition belts and pouches. Some fighters are wearing ghillie suits³ and raising their fists and shouting or chanting. In the center of the photograph behind the fighters rises a black plume of smoke, consistent with the aftermath of an explosion. On the right side of the photograph, the third male from the right is holding up the Houthi movement flag, which contains the Houthi movement motto: “God is great, Death to America, Death to Israel, Damn the Jews, Victory to Islam.” To the right of the flag is an Arabic phrase in white lettering superimposed on the photograph, which translates to “War Media,” suggesting that it was issued by an official organ of Ansar Allah. Behind the fighter displaying the Houthi flag and to the left is a fighter holding up the Yemeni flag. To the left of that fighter, AL-WAZER grasps an RPG launcher in his right hand and his mouth is open in an apparent shout or chant. AL-WAZER appears to be wearing a tactical vest and carrying a ghillie suit.

² This photograph appears genuine, although a filter appears to have been added to make the photo appear more dramatic. A copy of the photograph without the filter was obtained from an open source internet search.

³ Based on my training and experience, a “ghillie suit” is a three-dimensional type of camouflage clothing designed to resemble the surrounding environment.

AL-WAZER
holding an
RPG launcher



Houthi Flag and Motto

40. In an undated post to AL-WAZER's Facebook page entitled "The United States Kills the Yemeni People," the author of the post writes that he will discuss who the United States is and what it did to Arab and Muslim nations, especially Yemen. The post includes a photograph of two cluster bombs, one with its bomblets visible. The author further writes that: the United States means Christians with Jews behind them; God warned against the Christians and the Jews; the United States supports terrorism and is responsible for all the crimes; the United States destroyed Iraq and Afghanistan and violated human rights; in Yemen, the United States killed women, children and old men; the United States planned, sponsored and supported the war against Yemen; the United States destroyed infrastructures, bombed schools, homes, hospitals, factories and farms, and that the proof is that cluster bombs, stereochemistry bombs, and phosphorus bombs owned by the United States; the enemy is the United States and Israel; Saudi Arabia is a tool in the hands of the Christians and the Jews; and the rest of the countries are agents and mercenaries.

CONCLUSION

41. Probable cause exists that on May 17, 2016, AL-WAZER made materially false, fictitious, and fraudulent statements and representations to TFOs Soliman and Cook in a matter within the jurisdiction of the Federal Bureau of Investigation and the Department of Homeland Security. Based on the foregoing, I submit that this Affidavit supports probable for the issuance of a Criminal Complaint and an Arrest Warrant for GAAFAR MOHAMMED EBRAHIM AL-WAZER for violating Title 18, United States Code, Section 1001(a)(2).

REQUEST FOR SEALING

42. I further request that the Court order that all papers in support of this application, including the Affidavit and Arrest Warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to the target of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may give the target an opportunity to flee from prosecution, destroy or tamper with evidence, change patterns of behavior, notify confederates, or otherwise seriously jeopardize the investigation.



David A. Bottalico
Task Force Officer
Federal Bureau of Investigation

Subscribed and sworn to before me on November 1st, 2019


HONORABLE DAVID R. STRAWBRIDGE
United States Magistrate Judge